

a method of performing quality control in gene expression involving determination of variation between a desired printing of a microarray and an actual printing of a microarray; (II) claims 2-6, drawn to a method of performing quality control in gene expression on a microarray during target sample preparation, involving performing generating [sic] dynamic range of values from target sample and spiked controls; (iii) claim 7, drawn to a method of performing quality control in gene expression on a microarray during background intensity check, involving calculating mean and standard deviation for intensity data from one or more replicate spots on the microarray; (IV) claims 8-11, drawn to a method of performing quality control in gene expression on a microarray during scanning of the microarray, involving slide flipping, grip placement and calculating; and (V) claims 12-36, drawn to a method of performing quality control in gene expression on a microarray during quantitation of an image of the microarray, involving calculating CV for log-transformed intensity data and determining outlier spots.

Applicant hereby elects Group III, claim 7. The election is with traverse with respect to the restriction requirement between each of Groups I-V for the reasons discussed below.

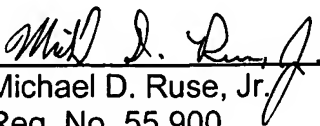
Applicant respectfully submits that the claims of Groups I, II, IV, and V should be rejoined with the claim of Group III, as their consideration together would not impose a serious burden on the Examiner.

For a restriction requirement to be proper, both of the following criteria must be met: (i) the inventions must be independent or distinct as claimed; and (ii) the consideration of the inventions as claimed in the same application must impose a serious burden on the Examiner. See M.P.E.P. § 803. Here, although the groups of invention are independent and distinct, the second criterion has not been met as evidenced by the Examiner's common classification of the claims for Groups I-V. Accordingly, the restriction requirement is improper to the extent it fails to join the claims of Groups I-V together.

Accordingly, Applicant requests rejoinder of the claims of Groups I, II, IV, and V with elected Group III, and examination on the merits of the claims in these groups in the present application.

Respectfully submitted,

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